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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/047,712	01/07/2003	Errol Wendell Barton		3847

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EXAMINER

LA, ANH V

ART UNIT PAPER NUMBER

2636

DATE MAILED: 06/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/047,712

Applicant(s)

BARTON, ERROL WENDELL

Examiner

Anh V. La

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The claims are objected to because claims 3 and 21 are duplicated.
2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 2, 8, 9, 11, 13, and 20 rejected under 35 U.S.C. 102(e) as being anticipated by Sulfstede.

Regarding claim 2, Sulfstede discloses a portable thermostatic controller 10 for use with an HVAC unit 94 located remotely from a thermostat 96 comprising a controller circuit 10 for connection to one of a controller block 96 and thermostat wire connections associated with the HVAC unit (figure 4), the controller circuit including a plurality of switches 12, 20, wherein operation of the plurality of switches are used to control certain functions of the HVAC unit from the controller circuit, located remotely from the thermostat (figures 1, 4), and a test circuit (system node of 70, figure 2) for testing at least one of continuity and voltage, the test circuit including an interface for connection with an element to be tested (figures 1-2, column 2, line 45- col. 3, line 10, col. 5, lines 15-30, col. 6, line 35-col. 7, line 25, col. 7, line 64- col. 8, line 50).

Regarding claim 8, Sulfstede discloses a fan function (figure 4).

Regarding claim 9, Sulfstede discloses a circuit for performing continuity testing (col. 5, lines 25-30).

Regarding claim 11, Sulfstede discloses a circuit for performing voltage testing (col. 8, lines 1-55).

Regarding claim 13, Sulfstede discloses an indicator 40 (col. 8, lines 5-55).

Regarding claim 20, Sulfstede discloses a portable thermostatic controller 10 for use with an HVAC unit 94 located remotely from a thermostat 96 comprising a controller circuit 10 for connection to one of a controller block 96 and thermostat wire connections associated with the HVAC unit remotely from the thermostat (figure 4), the controller circuit being used to control a least one of a fan function (fig. 4) and a heating/cooling functions, a test circuit (system node at 70, fig. 2) for testing at least one of continuity and voltage, the test circuit including an interface for connection with an element to be tested (figures 1-2, column 2, line 45- col. 3, line 10, col. 5, lines 15-30, col. 6, line 35- col. 7, line 25, col. 7, line 64- col. 8, line 50).

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 15-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sulfstede.

Regarding claims 15-16, Sulfstede discloses all the claimed subject matter as set forth above in the rejection of claim 13, and further discloses a display for displaying any voltage range (col. 4, lines 25-26, col. 4, lines 15-67, col. 8, lines 1-5), but does not clearly disclose 120 VAC (claim 15) and 240 VAC (claim 16) indicators. However, it would have been obvious to have 120 VAC and 240 VAC indicators since it is not inventive to discover the optimum or workable ranges by routine.

6. Claims 3-5, 17-18, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sulfstede in view of Eike.

Regarding claims 3-5 and 21, Sulfstede discloses all the claimed subject matter as set forth above in the rejection of claim 2, and further discloses the use of any built-in light 50, 40 (col. 5, lines 1-15), but does not disclose a flashlight (claims 3, 21), a flashlight switch (claim 4), and a momentary switch (claim 5). Eike teaches that it is old and well-known to choose a light that is lit or flashed (col. 7, lines 40-50), a flashlight switch 43, and a momentary switch 43. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to include a flashlight, a flashlight switch, and a momentary switch to the controller of Sulfstede as taught by Eike for the purpose of controlling the activation of a flashlight to get more attention from the user.

Regarding claim 17, Sulfstede discloses a portable thermostatic controller 10 for use with an HVAC unit 94 located remotely from a thermostat 96 comprising a casing 10 including at least a front face and a top face (fig. 1), a plurality of switches 12, 20 (fig.

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1, 4), a controller circuit 10 contained within the casing for connection to one of a controller block 96 and thermostat wire connection associated with the HVAC unit, the controller circuit being operable by the switches to control certain functions of the HVAC unit 94 remote from the thermostat 96, a light circuit 50, 40, a light bulb 50 extending through the top face of the casing (fig. 1). Sulfstede does not disclose a flashlight and a flashlight switch. Eike teaches that it is old and well-known to choose a light that is lit or flashed (col. 7, lines 40-50) and a flashlight switch 43. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to include a flashlight and a flashlight to the controller of Sulfstede as taught by Eike for the purpose of controlling the activation of a flashlight to get more attention from the user.

Regarding claim 18, Sulfstede discloses a fan function (figure 4).

7. Claims 6-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sulfstede in view of Ficchi.

Regarding claims 6-7, Sulfstede discloses all the claimed subject matter as set forth above in the rejection of claim 2, but does not disclose a plurality of wires including a first end and a second end with a clip. Ficchi teaches the use of a plurality of wires 10 including a first end and a second end with a clip (col. 3, lines 20-39, fig. 1). It would have been obvious at the time the invention was made to a person having ordinary skill in the art to include a plurality of wires including a first end and a second end with a clip to the controller of Sulfstede as taught by Ficchi for the purpose of connecting to the controller circuit and to one of a controller block and thermostat wire connections.

8. Claims 10 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sulfstede in view of Whitley.

Regarding claims 10 and 12, Sulfstede discloses all the claimed subject matter as set forth above in the rejection of claim 9, but does not disclose test probes (claim 10) and a selecting switch (claim 12). Whitley teaches the use of test probes 20, 22, 24, and a selecting switch 58, 18 (col. 4, line 19- col. 5, line 35). It would have been obvious at the time the invention was made to a person having ordinary skill in the art to include test probes and a selecting switch to the controller of Sulfstede as taught by Whitley for the purpose of performing continuity testing and selecting between the voltage testing circuit and continuity testing circuit.

9. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sulfstede in view of Earle.

Regarding claim 14, Sulfstede discloses all the claimed subject matter as set forth above in the rejection of claim 13, but does not disclose an audible indicator. Earle teaches the use of an audible indicator 38. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to include an audible indicator to the controller of Sulfstede as taught by Earle for the purpose of providing a signaling indication.

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10. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sulfstede in view of Eike as applied to claim 17 above, and further in view of Ficchi.

Regarding claim 19, Sulfstede as modified by Eike discloses all the claimed subject matter as set forth above in the rejection of claim 17, and further discloses the controller circuit being powered by the power source of the HVAC unit (fig. 4), but does not disclose the flashlight being powered by batteries contained in the casing. Ficchi teaches the use of a display 16 being powered by batteries 18 contained in a casing. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to include the flashlight being powered by batteries contained in the casing to the controller of Sulfstede (modified by Eike) as taught by Ficchi for the purpose of providing a difference power supply to the flashlight.

Answers to Remarks

11. Applicant's arguments filed March 03, 2005 have been fully considered.

Applicant's arguments with respect to claims 2-21 have been considered but are moot in view of the new ground(s) of rejection.

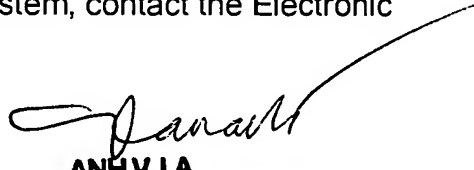
12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anh V. La whose telephone number is (571) 272-2970. The examiner can normally be reached on Mon-Fri from 9:30am to 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffery Hofsass can be reached on (571) 272-2981. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



ANH V. LA
PRIMARY EXAMINER

Anh V La
Primary Examiner
Art Unit 2636

AI
May 26, 2005